



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

February 13, 2020

Mr. Todd Fracassi
Pepper Hamilton LLP
4000 Town Center
Southfield, Michigan 48075-1505

Dear Mr. Fracassi:

SUBJECT: Request for Extension to Schedule Date, First Amended Consent Decree, Ingham Circuit Court File No.: 03-1862-CE for Diamond Chrome Plating Facility, 604 South Michigan Avenue, Howell, Livingston County; Facility ID No.: 47000202; NPDES Permit No.: MI0058204

This correspondence is in response to your January 22, 2020, request that the Michigan Department of Environment, Great Lakes, and Energy (EGLE) reconsider its denial of a twelve (12) month extension to the December 31, 2019, dates established in Paragraphs 6.8(b), 5.4(b), and 15.1 of the First Amended Consent Decree (FACD) requiring that:

- All physical components of the remedial action for on and off-site property be constructed and fully operational per Paragraph 6.8(b);
- Diamond Chrome Plating (DCP) complies with the National Pollutant Discharge Elimination System (NPDES) permit limitation for total chromium at Monitoring Point 001A per Paragraph 5.4(b) of the FACD; and
- Subject to a potential waiver, DCP make a payment of \$69,003.91 for the reimbursement of past costs per Paragraph 15.1 of the FACD.

In your October 30, 2019, letter you cited the need for a pilot study to evaluate the operation of a proposed groundwater and wastewater treatment system utilizing an evaporator and dryer unit. DCP also cited complications and delays attributable to the presence of per- and polyfluoroalkyl substances (PFAS) as a factor in DCP's request for an extension.

Accompanying your letter was a draft Groundwater and Wastewater Pilot Study Work Plan – Step 1 (work plan) to evaluate an evaporator and dryer unit that would be integrated into an existing wastewater treatment system. A different proposal was subsequently presented during the January 22, 2020, meeting. DCP submitted a formal work plan for EGLE review on February 7, 2020. Ms. Carla Davidson of the Water Resources Division has been in contact with you regarding the review of the work plan and DCP's additional request for an on-site meeting to facilitate review of the work plan.

Also at the January 22, 2020, meeting DCP provided a presentation of materials it believed supported its position that the contamination investigation was complete; however, the information provided by DCP did not change EGLE's conclusion that the contamination investigation remains incomplete. Pursuant to your request, EGLE has evaluated your request to reconsider its denial of the extension of the December 31, 2019, compliance date in the FACD, as detailed in EGLE's December 11, 2019, letter (enclosed). Since the reasons for which EGLE denied the extension remain the same, EGLE declines to rescind its denial.

If you have any questions regarding this letter, please contact Ms. Carla Davidson, at 517-243-1249 or davidsonc@michigan.gov for matters pertaining to Paragraph 5.4(b) of the FACD; or Ms. Rebecca Taylor at 517-284-5160 or taylorr@michigan.gov, for matters related to Paragraph 6.7 and 6.8 of the FACD.

Sincerely,



David LaBrecque, District Supervisor
Lansing District Office
Remediation and Redevelopment Division
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Christe Alwin, Acting District Supervisor
Lansing District Office
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Enclosure

cc: Ms. Celeste Holtz, BB&E
Mr. Brian Negele, Michigan Department of Attorney General
Mr. Mike Neller, EGLE
Ms. Alexandra Clark, EGLE
Mr. Dan Rockafellow, EGLE
Mr. Darren Bowling, EGLE
Ms. Carla Davidson, EGLE
Mr. Malcolm Mead-O'Brien, EGLE
Ms. Katelyn Wysocki, EGLE
Mr. Bryan Grochowski, EGLE
Ms. Vicki Katko, EGLE
Ms. Rebecca Taylor, EGLE
Mr. Dan McGeen, EGLE



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LIESL EICHLER CLARK
DIRECTOR

December 11, 2019

Mr. Todd Fracassi
Pepper Hamilton LLP
4000 Town Center
Southfield, Michigan 48075-1505

Dear Mr. Fracassi:

SUBJECT: Request for Extension to Schedule Date, First Amended Consent Decree, Ingham Circuit Court File No.: 03-1862-CE, for Diamond Chrome Plating Facility, 604 South Michigan Avenue, Howell, Livingston County; Facility ID No.: 47000202

This correspondence is in response to your letter dated October 30, 2019, requesting a 12-month extension to the December 31, 2019, dates established in Paragraphs 6.8(b), 5.4(b), and 15.1 of the First Amended Consent Decree (FACD) requiring that:

- All physical components of the remedial action for on and off-site property be constructed and fully operational per Paragraph 6.8(b);
- Compliance with the National Pollutant Discharge Elimination System (NPDES) permit limitation for total chromium at Monitoring Point 001A per Paragraph 5.4(b) of the FACD; and
- Subject to a potential waiver, make a payment of \$69,003.19 for the reimbursement of past costs per Paragraph 15.1 of the FACD.

In your letter, you cite the presence of per- and polyfluoroalkyl substances (PFAS) as a factor in the need for an extension. Accompanying your letter was a draft Groundwater and Wastewater Pilot Study Work Plan – Step 1 (work plan) to evaluate an evaporator and dryer unit that would be integrated into an existing wastewater treatment system. A response to the work plan will be provided under separate cover.

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) has carefully considered your extension request and acknowledges the challenges that Diamond Chrome Plating (DCP) identified regarding PFAS. Nonetheless, EGLE denies your request for a 12-month extension. EGLE notified DCP of the denial verbally during the meeting on November 20, 2019. Factors noted below have informed this decision.

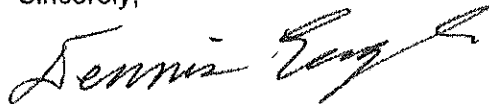
Paragraph 6.7 of the FACD required completion of the Contamination Investigation (CI) by June 30, 2016. At the request of DCP, this deadline was previously extended by EGLE to September 30, 2016. EGLE wrote in July 20, 2018, correspondence to DCP (enclosed) that the CI was considered incomplete, and that stipulated penalties are accruing pursuant to Section 16.2 of the FACD. To date, the CI remains incomplete for volatilization to indoor air pathway (VIAP), groundwater contamination delineation, and evaluation of emissions to the ambient air from contaminated soil sources exceeding criteria at the Facility. The VIAP includes the evaluation of preferential pathways for vapor movement through subsurface utility corridors such as storm and sanitary sewers. Because the investigation of the VIAP and soil volatilization to ambient air pathways remains incomplete, the need for physical components or control for

these pathways has not been established. In addition, contaminated groundwater continues to infiltrate into storm sewers, potentially causing violations of DCP's NPDES permit limits for pollutants such as hexavalent chromium and chromium as well as water quality standards for perfluorooctane sulfonate (PFOS). NPDES permit limitations and water quality standards are established to protect public health and the environment.

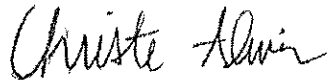
In the July 20, 2018, letter, EGLE stated that it was not inclined to grant further extension requests and urged DCP to expeditiously complete further investigations. EGLE maintains this position and urges DCP to complete the CI to ensure protection of public health and the environment. EGLE is holding in abeyance the demand for the Past Response Activity Payment of \$69,003.19 until DCP has had an opportunity to meet with EGLE. Mr. David LaBrecque provided potential meeting dates. Please contact him at 517-284-5123, or labrecqued@michigan.gov to finalize meeting arrangements.

If you have any questions regarding this letter, please contact Ms. Carla Davidson at 517-243-1249 or davidsonc@michigan.gov for matters pertaining to Paragraph 5.4(b) of the FACD, or Mr. LaBrecque for matters related to Paragraph 6.7 and 6.8 of the FACD.

Sincerely,



Dennis Eagle, District Supervisor
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Christe Alwin, Acting District Supervisor
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Enclosure

cc: Ms. Celeste Holtz, BB&E
Mr. Brian Negele, Michigan Department of Attorney General
Mr. Mike Neller, EGLE
Ms. Alexandra Clark, EGLE
Mr. Dan Rockafellow, EGLE
Ms. Carla Davidson, EGLE
Mr. David LaBrecque, EGLE
Mr. Malcolm Mead-O'Brien, EGLE
Ms. Katelyn Wysocki, EGLE
Mr. Bryan Grochowski, EGLE
Ms. Vicki Katko, EGLE
Ms. Rebecca Taylor, EGLE
Mr. Dan McGeen, EGLE